

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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U.S. DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Eddie Blash, Jr.,

2014 MAY 22 A 9:58

Petitioner,

No. 8:13-cv-1892-RMG

v.

ORDER

Warden of Lieber Correctional Institution,

Respondent.

This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge recommending that this Court grant Respondent’s motion for summary judgment. (Dkt. No. 38). As set forth below, the Court agrees with and adopts the R&R as the order of the Court.

Background

Petitioner, a state prisoner proceeding pro se, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(c) DSC, this matter was referred to a United States Magistrate Judge for pretrial proceedings. Respondent then filed a motion for summary judgment. (Dkt. No. 22). Petitioner then filed a response opposing the motion for summary judgment. (Dkt. No. 30). The Magistrate Judge then issued the present R&R recommending the Court grant Respondent’s motion. (Dkt. No. 38). Petitioner then filed a response to the R&R. (Dkt. No. 40).

Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making

a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

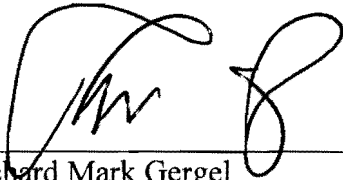
Discussion

After review of the record, the R&R, and Petitioner’s response to the R&R, the Court finds that the Magistrate Judge applied sound legal principles to the facts of this case and therefore agrees with and adopts the R&R as the order of the Court. The Court agrees that Respondent’s motion for summary judgment should be granted because the petition raises solely matters of state law which are not cognizable on federal habeas review. (Dkt. No. 38 at 22). Further, Petitioner agrees that Respondent’s motion should be granted. (Dkt. No. 40).

Conclusion

For the reasons set forth above, the Court agrees with and adopts the R&R as the order of the Court. (Dkt. No. 38). Accordingly, the Court grants Respondent’s motion for summary judgment. (Dkt. No. 22).

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

May 22, 2014
Charleston, South Carolina